UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:09-cv-334-FDW-DSC

DARRELL BROOKS,)
DI :)
Plaintiff,)
VS.	ORDER
LLOYD LAYMAN SHOPE, ENTERPRISE)
CAR RENTAL, FORD MOTOR)
COMPANY, and FORD AIR BAG)
MANUFACTURER,)
)
Defendants.)
)

THIS MATTER is before the Court upon Plaintiff's "Motion to Stay Proceedings and for a Continuance of the Evidentiary Hearing." (Doc. No. 64). After reviewing Plaintiff's motion, the Court GRANTS IN PART his motion for a continuance. The Court finds Plaintiff's statements that he "was taken by surprised [sic]" (Doc. No. 64 at 2) with some evidence presented at the recent hearing to be highly dubious since one of the Defendants presented much of this evidence in an affidavit in support of its motion to dismiss in January 2010, (Doc. No. 34) and the Court discussed this evidence in depth in its Order of dismissal. (Doc. No. 53). However, the Court is concerned that Plaintiff may not have had proper notice and adequate time to prepare evidence for presentation at the hearing. Therefore, Plaintiff may supplement the record by submitting sworn affidavits, from Plaintiff or another witness, by Friday, November 19, 2010. Although the Court has previously issued a Roseboro notice to the Plaintiff (Doc. No. 28), Plaintiff is reminded that he carries the burden of showing by a preponderance of the evidence that diversity jurisdiction exists.

The Clerk is directed to send a copy of this Order marked "Legal Mail" to Plaintiff,

Darrell Brooks, Register #16183171, c/o Federal Correctional Institution, P.O. Box 1000, Butner, North Carolina, 27509, which is his address of record, and to the Fourth Circuit case manager.

IT IS SO ORDERED.

Signed: October 22, 2010

Frank D. Whitney

United States District Judge